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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/750,215	12/29/2000	Hyon Chang Lim	0630-1203P	6996
7590	05/07/2004			EXAMINER
BIRCH, STEWART, KOLASCH & BIRCH, LLP			LEZAK, ARRIENNE M	
P.O. Box 747			ART UNIT	PAPER NUMBER
Falls Church, VA 22040-0747			2143	2
DATE MAILED: 05/07/2004				

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)
	09/750,215	LIM, HYON CHANG
	Examiner Arrienne M. Lezak	Art Unit 2143

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) Responsive to communication(s) filed on ____.
- 2a) This action is FINAL. 2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) Claim(s) 1-8 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) Claim(s) ____ is/are allowed.
- 6) Claim(s) 1-8 is/are rejected.
- 7) Claim(s) ____ is/are objected to.
- 8) Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on 29 December 2000 is/are: a) accepted or b) objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 - a) All b) Some * c) None of:
 1. Certified copies of the priority documents have been received.
 2. Certified copies of the priority documents have been received in Application No. ____.
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)	4) <input type="checkbox"/> Interview Summary (PTO-413)
2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)	Paper No(s)/Mail Date. ____.
3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date ____.	5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)
	6) <input type="checkbox"/> Other: ____.

DETAILED ACTION

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

2. Claims 1, 2, 4-6 & 8 are rejected under 35 U.S.C. 102(e) as being anticipated by US Patent US 6,516,350 B1 to Lumelsky.

3. Regarding Claims 1 & 4-6, Lumelsky teaches a method and apparatus for providing service in a network environment in which a server and a plurality of clients are connected with each other and the server, (comprising an application program, an OS and a network connection - per pending Claim 5), provides a multimedia service according to a request of a client, (Abstract), comprising:

- a service requesting step in which one of a plurality of clients requests a multimedia service from the server, (Col. 15, lines 32-40);
- a capability negotiation step in which it is evaluated whether the service is to generate a session to provide a multimedia service according to a request by one of the clients, (Col. 15, lines 32-67 and Col 16, lines 1-22); and

- service providing step in which the server provides a multimedia (or text – per pending Claim 6) service to one of the clients through the capability negotiation, (Col. 15, lines 32-67 and Col 16, lines 1-22).

Therefore, this reference may reasonably be read to teach or describe every element or claim limitation of Claims 1 & 4-6.

4. Regarding Claims 2 & 8, Lumelsky discloses a method and apparatus for providing service in a network environment wherein the capability negotiation step comprises the sub-steps of: a management capability, (per pending Claim 8), (Col. 5, lines 12-36), for evaluating an available amount of a CPU and a memory of the server; evaluating an available amount of a bandwidth of a network; evaluating an available amount of a CPU and a memory of a client; and generating a new session in case that the resources of the client and the network are available after being evaluated, (Fig. 10; Col. 12, lines 26-52; Col. 15, lines 32-67 and Col 16, lines 1-22). Therefore, this reference may reasonably be read to teach or describe every element or claim limitation of Claims 2 & 8.

Claim Rejections - 35 USC § 103

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

6. Claims 3 & 7 are rejected under 35 U.S.C. 103(a) as being unpatentable over further consideration of US Patent US 6,516,350 B1 to Lumelsky. Lumelsky is relied upon for those teachings disclosed herein.

7. Regarding Claims 3 & 7, as noted above, Lumelsky discloses a method and apparatus for providing service in a network environment wherein the generation of a new session is contingent upon resource availability as evaluated by negotiation. Lumelsky does not specifically note the refusal to generate a new session in the event of resource unavailability. It would have been obvious to one of ordinary skill in the art at the time of invention by Applicant to incorporate a resource unavailability contingency into the Lumelsky method and apparatus, as a purpose of the Lumelsky invention is to provide a system and method for managing and controlling the distribution, sharing and pooling of resources in a beneficial manner to requesting users of multimedia content, (Col. 5, lines 12-25).

8. Obviously, (and perhaps even inherently), it would not be beneficial to attempt to provide multimedia content within an environment comprised of insufficient resources. The ultimate result would be a failure to provide said multimedia content, and in the process, valuable resources would be expended unnecessarily in a futile attempt. Therefore, a beneficial default functionality would obviously, (and perhaps even inherently), comprise the ability to refuse generation of a new session in the event of resource unavailability. Thus, Claims 3 & 7 are found to be unpatentable over further consideration of the teachings of Lumelsky.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Arrienne M. Lezak whose telephone number is (703)-305-0717. The examiner can normally be reached on M-F 8:30-4:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, David A. Wiley can be reached on (703)-308-5221. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Arrienne M. Lezak
Examiner
Art Unit 2143

AML



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